

REMARKS

A Request for Continued Examination (RCE) is filed herewith and consideration of the amendments in a new non-final Official Action is respectfully requested.

The independent claims have been amended to provide that tasks are executed as a first priority unless a number of the first priority tasks in execution exceeds a first number, and that the tasks are executed as a second priority if the number of the first priority tasks in execution exceeds the first number. Support for the amendment is found, for example, at page 9, lines 18-23.

Claims 1 and 6 were rejected as unpatentable over ONEIL et al. 6,085,287 in view of NIITAKA et al. EP 0 400 500. Claims 2 and 7 were rejected further in view of BALA 6,351,844. Claims 2-4, 7-9, 11, 13-14, and 16 were rejected as unpatentable over ONEIL et al. in view of NIITAKA et al. and RYAN 5,367,656. Claims 5, 10, 12, and 15 were rejected further in view of HORII et al. JP 08-77025. Reconsideration and withdrawal of the rejections are respectfully requested.

The second element and corresponding step of the amended claims provides that the determination of whether the task is to be executed as the first or second priority is made based on the number of first priority tasks in execution. The number of first priority tasks in execution will decrease as the tasks are completed and thus the number of tasks executed at the

second priority will also decrease. As a result, less page-out operation in the processor cache memory occurs. The prior art does not disclose that the determination is made based on the number of first priority tasks in execution and thus the amended claims avoid the rejections.


The Official Action acknowledges that ONEIL et al. do not disclose the second element and corresponding step and relies on NIITAKA et al. for the suggestion to modify ONEIL et al. to include the second element and corresponding step. However, NIITAKA et al. disclose that the counted number of tasks is cumulative; namely, the number of tasks that are successively executed. In contrast to what is claimed herein, this number will not go down even if a task is finished. One of the purposes of the method and apparatus in NIITAKA et al. is to prevent low priority tasks from being left without execution for a long time period. Decreasing the number due to finishing a task contradicts this purpose and one of skill in the art would not see the present invention as an obvious modification. The other references have been carefully considered and do not make up for this shortcoming of NIITAKA et al. Accordingly, the amended claims avoid the rejections under §103.

In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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